



THE CITY OF SAN DIEGO

## HOW TO OBTAIN A PERMIT FOR

# Encroachments in the Right-of-Way

CITY OF SAN DIEGO DEVELOPMENT SERVICES

1222 FIRST AVENUE, MS 302 SAN DIEGO, CA 92101-4101

CALL (619) 446-5300 FOR APPOINTMENTS AND (619) 446-5000 FOR INFORMATION

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This Information Bulletin describes the permitting requirements for encroachments into the public right-of-way, and are more fully described in Chapter 12, Article 9, Division 7 of the San Diego Municipal Code. If the proposed encroachment requires a Neighborhood Development Permit, Site Development Permit or City Council authorization and is located within the Centre City, Marina or Gaslamp Planned Districts, please contact the Centre City Development Corporation (CCDC) at (619) 235-2200 to process those applications. To find out if your project is within one of these CCDC planning areas, which includes most of the downtown San Diego area, call our general information number at (619) 446-5000 or CCDC at (619) 235-2200.

An encroachment is any privately owned and maintained improvement located within the public right-of-way or a public easement. For example, non-standard improvements in the parkway (landscape features not clearly exempt in the Municipal Code), private storm drains connected to public drainage, planter boxes or nonstandard water or sewer services would be considered an encroachment.

Standard water, sewer or fire services (services perpendicular to the main), driveways, sidewalk underdrains, etc., are not considered encroachments. For permitting requirements for standard water, sewer or fire services, see Information Bulletin 166 "How to Obtain a Permit to Install Water, Sewer or Fire Services;" for driveway, sidewalk, or other standard public improvements installations, see Information Bulletin 165, "How to Obtain a Right-of-Way Permit for Standard Public Improvements."

## I. ENCROACHMENT AGREEMENT

Encroachments require an Encroachment Maintenance & Removal Agreement to be signed by the owner of the property benefitting from the encroachment. In most cases, the Encroachment Maintenance & Removal Agreement is recorded in the Office of the County Recorder as an encumbrance against the benefitting property.

## II. PERMITTING PROCESS

Most encroachments will require a Public Right-of-Way Permit unless exempt under Section 129.0703 of the Municipal Code (see Section II.A. below). Some encroachments require a Neighborhood Development Permit, Site Development Permit, or City Council approval prior to the issuance of a Public Right-of-Way Permit. The different permit processes are described below.

### A. Public Right-of-Way Permit (Process One Decision)

A Public Right-of-Way Permit is required for

## Documents referenced in this Information Bulletin

- [San Diego Municipal Code, Chapter 12, Article 9, Division 7](#)
- [Land Development Manual, Project Submittal Requirements, Section 3](#)
- [Information Bulletin 165](#), How to Obtain a Right-of-Way Permit for Standard Public Improvements
- [Information Bulletin 166](#), How to Obtain Permit to Install Water, Sewer or Fire Services
- [Information Bulletin 503](#), Fee Schedule Development and Policy Approval/Permits
- [Information Bulletin 512](#), How to Obtain Public Noticing Information
- [Ownership Disclosure Statement, DS-318](#)
- [Storm Water Requirements Applicability Checklist, DS-560](#)
- [General Application, DS-3032](#)
- [Supplemental Discretionary Application, DS-3035](#)
- [Deposit Account/Financially Responsible Party, DS-3242](#)

any work, construction or use within a public street, alley or easement except:

1. The installation of underground irrigation systems in the parkway that will be maintained by the fronting property owner.
2. The installation of landscape in the parkway (without raising existing grade) that is less than 30-inches high and will be maintained by the fronting property owner.
3. The installation of street trees covered by a Street Tree Permit.
4. Certain improvements authorized by a valid building permit such as balconies, awnings, and other integral components of a permitted structure. (**Note:** If the improvement is privately owned and maintained, an Encroachment Maintenance & Removal Agreement may still be required).

A Public Right-of-Way Permit decision is made in accordance with Process One. A Process One decision is a staff level decision which does not require a public hearing and cannot be appealed to the Planning Commission or City Council.

### **B. Neighborhood Development Permit (Process Two Decision)**

Prior to the issuance of a Right-of-Way Permit, a Neighborhood Development Permit is required where the proposed encroachment will be located within a street or an alley, and where the applicant is the owner of the property fronting that encroachment, except for the following:

1. Private hardscape improvements in the public right-of-way including ramps required to accommodate required access for disabled persons.
2. Fences or walls 3-feet in height or less, where there is no present use for the right-of-way, and the fences or walls are consistent with the underlying zone, city standards and policies. For fences or walls between the shoreline and the first public roadway of the Coastal Overlay Zone, a Process Three Coastal Development Permit will also be required (Municipal Code Section 142.0305).
3. Private underground utility connections to a public main (including when the connection fronts other property not owned by the applicant).

A Process Two decision requires notification to all property owners and tenants of property within a 300-foot radius of the subject encroachment (Municipal Code Section 112.0302(b)). The decision to approve, conditionally approve or deny the encroachment is made by City staff and is appealable to the Planning Commission.

### **C. Site Development Permit (Process Four Decision)**

Prior to the issuance of a Right-of-Way Permit, a Site Development Permit is required where the proposed encroachment will be located on a street or an alley, and where the applicant is not the owner of the property fronting that encroachment. The decision to approve, conditionally approve or deny the encroachment is made by the Planning Commission and is appealable to the City Council.

### **D. City Council Approval**

The following encroachments require City Council approval:

1. Underground or overhead structures which extend into the public right-of-way farther than the ultimate curb line.
2. Other encroachments which, in the opinion of the City Manager, are of sufficient public interest to require City Council approval.

## **III. SUBMITTAL REQUIREMENTS**

Public Right-of-Way Permit submittal requirements are contained in the Land Development Manual, Project Submittal Requirements, Sec-

tion 3. The following plans and documents are required to be submitted, along with the appropriate fees and deposits, for a Neighborhood Development Permit or Site Development Permit. Appointments for submittal are recommended and can be made by phoning (619) 446-5300.

A submitted completeness review is not required when the submittal is only for permitting of an encroachment.

### **A. Forms**

#### **Provide one copy of the following:**

1. General Application (DS-3032)
2. Deposit Account/Financially Responsible Party (DS-3242)
3. Supplemental Discretionary Application (DS-3035)
4. Grant Deed for the property(ies) benefiting from the encroachment.
5. Storm Water Requirements Applicability Checklist (DS-560)
6. Ownership Disclosure Statement (DS-318). This form must be signed by all persons/corporations/partnerships benefitting from the encroachment.

### **B. Public Notice Package**

See Information Bulletin 512, "How to Obtain Public Noticing Information," for details

### **C. Encroachment Exhibit**

#### **Provide eight copies of the following:**

An exhibit (minimum 8-1/2" x 11"; maximum 18" x 24"), drawn to scale, detailing the encroachment area is required and shall include the following minimum detail:

1. Vicinity Map
2. The right-of-way lines completely labeled and dimensioned
2. The location and type of encroachment, clearly identified
3. Existing and proposed right-of-way improvements, such as driveways, sidewalks, trees, light posts, fire hydrants, water meters, etc.
4. Elevation views with heights dimensioned for above ground structures
5. North arrow and scale

### **V. Fees**

Fees and deposits are required at the time of project submittal. For Development Permit fees and deposits, see Information Bulletin 503, "Fee Schedule Development and Policy Approval/ Permits." **Note:** Fees are nonrefundable, regardless of whether an encroachment is approved or denied.